

Maine Revised Statutes
Title 26: LABOR AND INDUSTRY
Chapter 13: UNEMPLOYMENT COMPENSATION

§1221-B. TREATMENT OF INDIAN TRIBES

To the extent permitted under federal law, including the Maine Indian Claims Settlement Act, Title 25, United States Code, Chapter 19, Subchapter II, this section governs unemployment contributions and direct reimbursement options for Indian tribes. [2001, c. 381, §1 (NEW).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employing unit," as defined in this chapter, includes any Indian tribe for which service in employment is performed. [2001, c. 381, §1 (NEW).]

B. "Employment" includes service performed in the employ of an Indian tribe, as defined in the Federal Unemployment Tax Act, 26 United States Code, Chapter 23, Section 3306(u), 2000, referred to in this section as "FUTA," as long as that service is excluded from the definition of employment as defined in 26 United States Code, Section 3306(c) solely by reason of 26 United States Code, Section 3306(c)(7) and is not otherwise excluded from the definition of employment under this chapter. For purposes of this paragraph, the exclusions from employment in section 1043, subsection 11, paragraph F, subparagraph (17), division (i), subdivisions (i), (ii), (iii), (iv) and (v) are applicable to services performed in the employ of an Indian tribe. [2011, c. 691, Pt. A, §29 (AMD).]

C. "Indian tribe" means an Indian tribe or tribal unit, including a subdivision, subsidiary or business enterprise wholly owned by an Indian tribe subject to this chapter. [2001, c. 381, §1 (NEW).]

[2011, c. 691, Pt. A, §29 (AMD) .]

2. Benefits. Benefits based on service in employment are payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter.

[2001, c. 381, §1 (NEW) .]

3. Payments in lieu of contributions. Contributions by Indian tribes for unemployment tax purposes are controlled by this subsection.

A. An Indian tribe shall pay contributions under the same terms and conditions as all other subject employers unless that Indian tribe elects to pay into the fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe. [2001, c. 381, §1 (NEW).]

B. An Indian tribe electing to make payments in lieu of contributions shall make that election in the same manner and under the same conditions as provided in section 1221, subsection 11 for the State and local governments and nonprofit organizations subject to this chapter. An Indian tribe shall determine if reimbursement for benefits paid will be elected by the Indian tribe as a whole, by an individual tribal unit or by a combination of individual tribal units. [2001, c. 381, §1 (NEW).]

C. An Indian tribe or tribal unit must be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions. [2001, c. 381, §1 (NEW).]

D. At the discretion of the commissioner, an Indian tribe that elects to become liable for payments in lieu of contributions shall, within 60 days after the effective date of its election:

(1) Execute and file with the commissioner a surety bond approved by the commissioner; or

(2) Deposit with the commissioner money or securities on the same basis as other employers with the same election option. [2001, c. 381, §1 (NEW).]

[2001, c. 381, §1 (NEW) .]

4. Failure to make payments. An Indian tribe that fails to make the required payment is subject to this subsection.

A. An Indian tribe that fails to make the payments required by this chapter, including assessments of interest and penalty, within 90 days of receipt of the bill loses the option to make payments in lieu of contributions, as described in subsection 3, for the following tax year unless payment in full is received before contribution rates for the next tax year are computed. [2001, c. 381, §1 (NEW).]

B. An Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in paragraph A, regains the option if, after a period of one year, all contributions have been made on time and no contributions, payments in lieu of contributions for benefits paid, interest or penalties remain outstanding. [2001, c. 381, §1 (NEW).]

C. Notwithstanding subsection 1, paragraph B, if the Indian tribe fails to make required payments, including assessments of interest and penalty, after all collection activities considered necessary by the commissioner have been exhausted, services performed for that Indian tribe are not considered employment for purposes of subsection 1, paragraph B. [2001, c. 381, §1 (NEW).]

D. An Indian tribe that loses coverage due to paragraph C may have services performed for that Indian tribe included as employment at the discretion of the commissioner, once all contributions, payments in lieu of contributions, interest and penalties have been paid. [2001, c. 381, §1 (NEW).]

[2001, c. 381, §1 (NEW) .]

5. Notices to Indian tribes. The commissioner shall provide notification in notices of payment and reporting delinquency to Indian tribes that failure to make full payment within the prescribed time frame:

A. Will cause the Indian tribe to be liable for taxes under FUTA; [2001, c. 381, §1 (NEW).]

B. Will cause the Indian tribe to lose the option to make payments in lieu of contributions; and [2001, c. 381, §1 (NEW).]

C. Could cause services in the employ of the Indian tribe to be excepted from employment for purposes of obtaining benefits under the Employment Security Law. [2001, c. 381, §1 (NEW).]

[2001, c. 381, §1 (NEW) .]

6. Notices to Federal Government. If an Indian tribe fails to make payments required under this section, including assessments of interest and penalties, within 90 days of a final notice of delinquency, the commissioner shall notify immediately the United States Internal Revenue Service and the United States Department of Labor.

[2001, c. 381, §1 (NEW) .]

7. Extended benefits. Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the Federal Government must be financed in their entirety by that Indian tribe.

[2001, c. 381, §1 (NEW) .]

8. Continuation of coverage. Unemployment benefits payable to unemployed individuals who performed services in employment for an Indian tribe as defined in this section and who meet the eligibility qualifications under this chapter may not be withheld because the Indian tribe is delinquent in the payment of unemployment contributions or reimbursement payments in lieu of contributions as defined in this chapter.

[2001, c. 381, §1 (NEW) .]

SECTION HISTORY

2001, c. 381, §1 (NEW). 2011, c. 691, Pt. A, §29 (AMD).

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